

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
CIVIL ACTION No. 1:15-CV-559**

THE CITY OF GREENSBORO, LEWIS A.
BRANDON III, JOYCE JOHNSON,
NELSON JOHNSON, RICHARD ALAN
KORITZ, SANDRA SELF KORITZ,
CHARLI MAE SYKES, AND MAURICE
WARREN II

Plaintiffs,

v.

THE GUILFORD COUNTY BOARD OF
ELECTIONS,

Defendant,

MELVIN ALSTON, JEAN BROWN,
HURLEY DERRICKSON, STEPHEN
GOLIMOWSKI, WAYNE GOODSON, JIM
KEE, EARL JONES, SHARON KASICA,
and WILLIAM CLARK PORTER,

Defendant-Intervenors.

**PLAINTIFFS' MOTION FOR
PARTIAL JUDGMENT ON THE
PLEADINGS AS TO COUNT I OF
THE AMENDED COMPLAINT**

Plaintiffs The City of Greensboro (“City of Greensboro” or “City”) and Lewis A. Brandon III, Joyce Johnson, Reverend Nelson Johnson, Richard Alan Koritz, Sandra Self Koritz, Charli Mae Sykes, and Maurice Warren II (collectively “Citizen Plaintiffs”), by and through counsel, and pursuant to Rule 12(c) of the Federal Rules of Civil Procedure, respectfully move this Court for an Order entering judgment in favor of Plaintiffs on Count I of the Amended Complaint (Doc. 65). In support of this Motion, the City and the Citizen

Plaintiffs rely on the pleadings in this matter and the Memorandum of Law filed contemporaneously with this Motion, which show the following:

1. North Carolina General Statutes Sections 160A-103 and 160A-104 grant citizens in every North Carolina municipality the right to institute a referendum or an initiative to change the structure of their local government.

2. Session Law 2015-138, House Bill 263, entitled “An Act to Modify the Form of Government in the City of Trinity and to Clarify the Form of Government, Method of Election, and Determination of Election Results in the City of Greensboro,” as amended (“the Act”), removes from the City of Greensboro and its citizens, alone among North Carolina municipalities, the statutory right to control the structure of their municipal government by means of petitions for initiative and referendum.

3. Because the Act compromises the rights of the City and its citizens to govern themselves locally while that right remains available to the citizens of every other North Carolina municipality, the Act is invalid under the Equal Protection Clause of the United States Constitution and Article I, Section 19 of the North Carolina Constitution as a matter of law.

4. No rational interest of the State in withdrawing the right of self-government from Greensboro residents alone is apparent or articulated in the legislation, and no legitimate State interest could be served by depriving Greensboro citizens of the right to petition for initiative and referendum when that right remains available in every other municipality in North Carolina.

5. The Equal Protection claim asserted by the City and the Citizen Plaintiffs in Count I of the Amended Complaint is a purely legal claim amenable to decision by this Court on the face of the pleadings, as there are no issues or disputes of fact relevant to the claim.

WHEREFORE, Plaintiffs respectfully request that the Court enter judgment in their favor on Count I of the Amended Complaint and enter such other and further relief in their favor as the Court may deem appropriate.

Respectfully submitted this the 21st day of October, 2016.

/s/ Jim W. Phillips

Jim W. Phillips, Jr.

N.C. State Bar No. 12516

jphillips@brookspierce.com

Julia C. Ambrose

N.C. State Bar No. 37534

jambrose@brookspierce.com

/s/ Bryan Starrett

Bryan Starrett

N.C. State Bar No.: 40100

bstarrett@brookspierce.com

BROOKS, PIERCE, MCLENDON,
HUMPHREY & LEONARD, L.L.P.

Post Office Box 26000

Greensboro, NC 27420-6000

Telephone: 336/373-8850

Attorneys for the City of Greensboro

/s/ Anita S. Earls

Anita S. Earls

N.C. State Bar No. 15597

anita@southerncoalition.org

Allison J. Riggs

N.C. State Bar No. 40028

allison@southerncoalition.org

Southern Coalition for Social Justice
1415 West Highway 54, Suite 101
Durham, NC 27707

Telephone: 919-323-3380, ext. 115

Facsimile: 919-323-3942

*Attorneys for Plaintiffs Lewis A. Brandon
III, Joyce Johnson, Nelson Johnson,
Richard Alan Koritz, Sandra Self Koritz,
and Charli Mae Sykes*

CERTIFICATE OF SERVICE

I hereby certify that I have this day electronically served copies of the foregoing notice on all parties who have entered an electronic appearance in this action through the ECF filing system.

This the 21st day of October, 2016.

/s/ Bryan Starrett

Bryan Starrett